

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

JEFFREY TONDALO,)	
)	
Plaintiff,)	CIVIL ACTION FILE
)	NO.: <u>CV422-033</u>
vs.)	
)	
PRO DISPOSAL, LLC,)	
JOHN GLOVER, JR., and)	
EMPLOYERS MUTUAL)	
CASUALTY COMPANY,)	
)	
Defendants.)	

NOTICE OF REMOVAL

**TO: THE JUDGES, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA, SAVANNAH DIVISION**

Defendants Pro Disposal, LLC, John Glover, Jr.,¹ and Employers Mutual Casualty Company, remove the civil action captioned *Jeffrey Tondalo v. Pro Disposal, LLC, John Glover, Jr., and Employers Mutual Casualty Company*, Civil File Action No.: STCV21-02371, from the State Court of Chatham County, Georgia to the United States District Court for the Southern District of Georgia, Savannah Division. Removal is based upon the following:

¹ Defendants Pro Disposal, LLC and John Glover, Jr. are specially appearing and specifically reserve and do not waive their defenses that this Court lacks personal jurisdiction over them, that there has been insufficient process and/or insufficient service of process against them

Removal Based on Diversity Jurisdiction Pursuant to 28 U.S.C. § 1441

1. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 and this matter may be removed to this Court under 28 U.S.C. § 1441(a).

Description of Suit

2. On December 20, 2021, Plaintiff Jeffrey Tondalo filed a Complaint against Defendants Pro Disposal, LLC, John Glover, Jr., and Employers Mutual Casualty Company (collectively “Defendants”) alleging negligence related to a motor vehicle accident that occurred on or about December 19, 2019, in Chatham County, Georgia (hereafter “Action”). A true and correct copy of the Complaint is attached hereto as Exhibit “A.”

3. On January 27, 2022, Defendants Pro Disposal, LLC and John Glover, Jr. filed their Special Appearance and Answer to Plaintiff’s Complaint for Damages. A true and correct copy of the Answer is attached hereto as Exhibit “B.”

4. Defendant Employers Mutual Casualty Company have contemporaneously filed their partial motion to dismiss Plaintiff’s claims for punitive damages and costs of litigation, which is attached hereto as Exhibit “C.”

Compliance with Deadline for Removal

5. Pursuant to 28 U.S.C. §1446(b)(2)(B), each defendant shall have thirty (30) days after receipt by or service on that defendant of the initial pleading or summons to file the notice of removal.

6. Pursuant to the State Court of Chatham County's docket of this matter, Defendant Pro Disposal, LLC has not yet been served with the Summons and Complaint. Pro Disposal, LLC consents to this removal.

7. Defendant John Glover, Jr. was purportedly served with Summons and Complaint pursuant to O.C.G.A. § 40-12-2 on or about December 28, 2021.² (*See* Certificate of Acknowledgement and "Notice of Service of Nonresident by Service on the Secretary of State and Affidavit of Compliance with O.C.G.A. § 40-12-2," attached hereto as Exhibit "D").

8. Defendant Employers Mutual Casualty Company was served on January 5, 2022. (*See* Sheriff's Entry of Service, attached hereto as Exhibit "E").

9. Defendants initiated removal within thirty (30) days of service.

10. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(2)(B)-(C).

² Defendants contend that Plaintiff failed to comply with the provisions of O.C.G.A. § 40-12-2.

Consent for Removal

11. The procedure for removing a case to Federal Court is codified in 28 U.S.C. § 1446 and it requires that all Defendants consent to the removal. *Cook v. Randolph County, Ga.*, 573 F.3d 1143, 1150 (11th Cir. 2009); *Tri-Cities Newspaper, Inc. v. Tri-Cities Printing Pressmen and Assistants' Local 349*, 427 F.2d 325, 326-27 (5th Cir. 1970).

12. Defendants consent to this removal by and through their undersigned counsel of record.

The Diversity of Citizenship Requirement

13. Upon information and belief, and based upon the Accident Report for the motor vehicle accident which is the subject of Plaintiff's Complaint, Plaintiff is a citizen and resident of the State of Connecticut. (*See* Accident Report, attached hereto as Exhibit "F-1").

14. As pled in the Complaint, Defendant Pro Disposal, LLC, is a limited liability company with its principal place of business located in the State of South Carolina. (Complaint, ¶ 1).

15. As pled in the Complaint, Defendant Glover is a citizen and resident of the State of South Carolina. (Complaint, ¶ 2).

16. Defendant Employers Mutual Casualty Company is an Iowa corporation with its principal place of business located in Des Moines, Iowa. (Declaration of Tina Cheng, attached hereto as Exhibit “F,” ¶ 6).

17. Complete diversity exists in this Action.

The Amount in Controversy Requirement

18. Plaintiff also alleges that he suffered “serious injury” as a result of the subject collision and that the accident caused “severe damages.” (Complaint, ¶¶ 33-34).

19. Plaintiff’s Complaint seeks a judgement for past medical expenses in the amount of \$9,392.80, lost wages, “consequential damages as a proximate result of the collisions,” “pain and suffering,” and punitive damages. (Complaint, ¶¶ 79-83).

20. Plaintiff’s counsel stated that Plaintiff has continued or will continue to seek orthopedic treatment for injuries purportedly sustained as a result of the subject motor vehicle accident. (Declaration of Tina Cheng, attached hereto as Exhibit “F,” ¶ 9).

21. Plaintiff’s counsel has failed to confirm whether Plaintiff seeks damages in excess of \$75,000. (Exhibit “F-2”).

22. Pursuant to O.C.G.A. § 51-12-51, a trier of fact may award punitive damages up to \$250,000.

23. Accordingly, the amount in controversy in this Action exceeds \$75,000.

The State Court Proceeding

24. The state court proceeding is identified as follows: *Jeffrey Tondalo v. Pro Disposal, LLC, John Glover, Jr., and Employers Mutual Casualty Company*, Civil File Action No.: STCV21-02371, State Court of Chatham County, Georgia. A Notice of Removal will be filed with the state court upon filing of this Notice of Removal.

All State Court Documents

25. All state-court documents required to be filed with this notice are attached hereto: Plaintiff's Complaint (Exhibit "A"), Defendants Pro Disposal, LLC and John Glover, Jr.'s Special Appearance and Answer to Plaintiff's Complaint for Damages (Exhibit "B"), Certificate of Acknowledgement and "Notice of Service of Nonresident by Service on the Secretary of State and Affidavit of Compliance with O.C.G.A. § 40-12-2," (Exhibit "D"), and Sheriff's Entry of Service of EMC (Exhibit "E").

WHEREFORE, Defendants Pro Disposal, LLC, John Glover, Jr., and Employers Mutual Casualty Company wish to exercise their rights under the provisions of 28 U.S.C. § 1441, *et seq.* to remove this Action from the State Court

of Chatham County, Georgia to the United States District Court, Southern District of Georgia, Savannah Division.

This 4th day of February, 2022.

NALL & MILLER, LLP

BY: s/ Tina Cheng
AMANDA L. MATTHEWS
Georgia Bar No. 474951
TINA CHENG
Georgia Bar No. 198248

ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the within and foregoing **NOTICE OF REMOVAL (Federal Court)** by operation of the Court's electronic filing system (**CM/ECF**) to the following attorney(s) of record listed below:

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This 4th day of February, 2022.

NALL & MILLER, LLP

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